

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

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|---------------------------|---|-----------|
| UNITED STATES OF AMERICA, |) | |
| |) | |
| Plaintiff, |) | 8:01CR130 |
| |) | |
| v. |) | |
| |) | |
| CARLTON BROWN, |) | ORDER |
| |) | |
| Defendant. |) | |
| _____ |) | |

This matter is before the Court on defendant's motion to reduce sentence (Filing No. 110), and the stipulation of the parties (Filing No. 111) that the defendant is entitled to a two-level reduction of his base offense level pursuant to the retroactive amendments to the crack cocaine guidelines adopted in November of 2007. The probation office has prepared a retroactive sentencing worksheet which advises that the defendant is not entitled to this reduction. This is premised upon the amount of cocaine for which probation found the defendant should be held responsible. However, the Court in reviewing the sentencing hearing finds that the amounts of crack and powder cocaine for which defendant should be held responsible does not prevent him from receiving the benefits of the amendments to the crack cocaine guidelines; and the Court will approve and adopt the stipulation and find that the defendant's final offense level should be reduced from 35 to 33 and his guideline sentence should be reduced to 235 to 293 months imprisonment.

In view of the fact that defendant has previously received a fifty per cent (50%) reduction of sentence pursuant to Rule 35 of the Federal Rules of Criminal Procedure, the Court finds that defendant's sentence under the amendment guidelines should be one hundred eighteen (118) months. Accordingly,

IT IS ORDERED that said motion is granted and the stipulation of the parties is approved and adopted; the sentence of the defendant is reduced to a term of one hundred eighteen (118) months. He shall receive credit for all time served. The conditions of supervised release entered in the original judgment and committal order remain in full force and effect.

DATED this 3rd day of October, 2008.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court